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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,721	01/25/2002	Vladimir Pelekhaty	346	2154

7590  
CIENA Corporation  
Legal Department  
1201 Winterson Rd.  
Linthicum, MD 21090

03/26/2003

EXAMINER

PRITCHETT, JOSHUA L

ART UNIT	PAPER NUMBER
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2872

DATE MAILED: 03/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/056,721

Applicant(s)

PELEKHATY, VLADIMIR

Examiner

Joshua L Pritchett

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11-17 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election of claims 11-17 in Paper No. 7 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 16 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 16 recites the limitation that the "service channel is substantially equal to 131 nm." in line 2. There is no support for this limitation in the specification; instead the specification frequently refers to a service channel of 1310 nm. The examiner interprets this discrepancy to be a typo and will examine claim 16 as if the service channel is substantially equal to 1310 nm. instead of 131 nm.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15-17 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 15 recites the limitation, "a plurality of wavelengths within a range about 1550 nm." The term "about" renders the claim indefinite because the term does not definitely limit the claim. Claims 16-17 are dependent on claim 15 and therefore inherit the deficiencies thereof and are therefore also rejected.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 11-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Alexander (US 5,726,784).

Regarding claim 11, Alexander discloses an optical communication device comprising an optical communication path (col. 6 lines 18-19), a plurality of optical filtering elements (28, 70 and 90), each of the plurality of filtering elements being configured to add/drop a plurality of optical signals (col. 5 lines 17-18) each of which being respective one of a plurality of wavelengths (col. 5 lines 26-32) and a service channel (col. 3 line 64-66). The use of two different optical transmitters inherently means the one transmitter can produce the claimed plurality of wavelengths and the other can produce the service channel.

Regarding claim 12, Alexander discloses the optical communication path being a continuous path (Fig. 1). Fig. 1 shows the optical path from the entry side of the system to the exit side of the system has a continuous path.

Regarding claim 13, Alexander discloses the plurality of filtering elements includes an optical interference filter (col. 7 lines 60-62).

Regarding claim 14, Alexander discloses an optical communication device comprising an optical communication path (col. 6 lines 18-19), a plurality of optical filtering elements (28, 70 and 90), each of the plurality of filtering elements being configured to add/drop a plurality of optical signals (col. 5 lines 17-18) each of which being respective one of a plurality of wavelengths (col. 5 lines 26-32) and a service channel (col. 3 line 64-66). The use of two different optical transmitters inherently means the one transmitter can produce the claimed plurality of wavelengths and the other can produce the service channel. Alexander further discloses the service channel having a different wavelength than the plurality of wavelengths

Art Unit: 2872

(col. 3 lines 64-66). Alexander further discloses an optical interference filter configured to select a grouping of the plurality of wavelengths (col. 7 lines 64-65). Because no piece of equipment is exactly perfect in selecting a desired wavelength, any selected wavelength will inherently have some grouping of closely related wavelengths.

Regarding claim 15, Alexander discloses the plurality of wavelengths in a range about 1550 nm. (col. 3 lines 64-66).

Regarding claim 16, Alexander discloses the service channel having a wavelength of 1310 nm. (col. 3 lines 64-66).

Regarding claim 17, Alexander discloses the service channel having a wavelength in a range between and including 1625-1650nm. (col. 7 lines 64-65).

Claims 11-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Mizrahi (US 6,069,719)

Regarding claim 11, Mizrahi discloses an optical communication device comprising an optical communication path (col. 6 lines 18-19), a plurality of optical filtering elements (14, 60, and 90), each of the plurality of filtering elements being configured to add/drop a plurality of optical signals (col. 2 lines 60-61, col. 4 lines 17-19, and col. 5 lines 2-4 respectively) each of which being respective one of a plurality of wavelengths (Fig. 4) and a service channel (col. 4 lines 51-52).

Regarding claim 12, Mizrahi discloses the optical communication path being a continuous path (col. 6 lines 18-19).

Regarding claim 13, Mizrahi discloses the plurality of filtering elements includes an optical interference filter (col. 4 lines 7-8).

Regarding claim 14, Mizrahi discloses an optical communication device comprising an optical communication path (col. 6 lines 18-19), a plurality of optical filtering elements (14, 60, and 90), each of the plurality of filtering elements being configured to add/drop a plurality of optical signals (col. 2 lines 60-61, col. 4 lines 17-19, and col. 5 lines 2-4 respectively) each of which being respective one of a plurality of wavelengths (Fig. 4) and a service channel (col. 4 lines 51-52). Mizrahi further discloses the service channel having a different wavelength than the plurality of wavelengths (Fig. 1). Fig. 1 shows the service channel ( $\lambda_{sc}$ ) is different than the plurality of wavelengths ( $\lambda_1, \lambda_2, \dots$ ). Mizrahi further discloses an optical interference filter (col. 4 lines 7-8) configured to select a grouping of the plurality of wavelengths (col. 4 lines 14-20).

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Mizrahi (US 6,459,516) teaches the use of add/drop multiplexing in optical communications.

Mizrahi (US 6,466,346) teaches the use of add/drop multiplexing in optical communications.

Art Unit: 2872

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua L Pritchett whose telephone number is 703-305-7917.

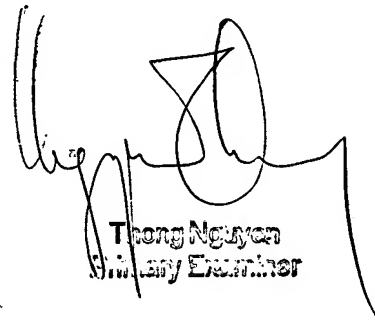
The examiner can normally be reached on Monday - Friday 7:00 - 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cassandra Spyrou can be reached on 703-308-1687. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and 703-872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

JLP

March 21, 2003



Thong Nguyen  
Primary Examiner